



SAMMARTINO | LAW | GROUP

January 22, 2019

Sent Via: Certified Mail

Ms. Russlyn Wells
Zoning Administrator, City of Tucson
Planning and Development Services Department
P.O. Box 27210
Tucson, AZ 85726-7210

RE: Notice of Intent to Appeal Zoning Determination #T19SA00010 of January 10, 2019

Dear Ms. Wells,

Pursuant to the City of Tucson Unified Development Code ("UDC") § 1.5.1(E)(3), the Mountain View Neighborhood Association ("MVNA") provides this Notice of Intent to Appeal your zoning determination (the "Determination") dated January 10, 2019, and designated #T19SA00010.

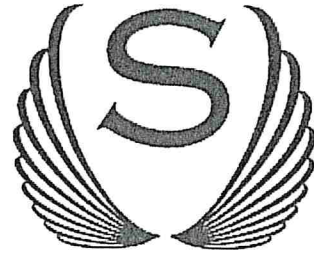
Thank you for discussing this notice with me today on the phone and confirming the full appeal application for consideration by the Board of Adjustment is due 30 days from January 10, 2019, or on February 8, 2019. If I am incorrect in restating this due date for the appeal application, please let me know at once.

STATEMENT EXPLAINING THE REASON FOR THE APPEAL PURSUANT TO UDC § 1.5.1(E)(3)

The Determination provides no reason for the assertion contained therein that "the Northside Area Plan contains policies rather than laws and these policies provide guidance primarily for rezoning applications and do not supercede the regulations contained in UDC 8.7.3.C.1 allowing flexibility in the development of lots." It is the UDC itself, not the NAP, that states "[a]n FLD shall be in conformance with the General Plan and any of its components, including any applicable adopted area and neighborhood plans." UDC § 8.7.3(C)(1). The Determination's reasoning would be persuasive if the mandate for an FLD to comply with the NAP appeared in the NAP itself, but the mandate appears in UDC § 8.7.3(C)(1).

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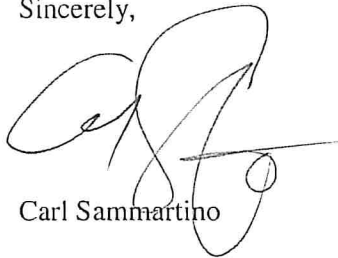
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The Determination's reasoning, that neighborhood plans "are planning documents, not laws," is not germane to the question of whether the "[c]ity's land use code, the UDC, [which] is the codification of the [c]ity's land use laws and regulations" mandates that an FLD must comply with an applicable, adopted neighborhood plan like the NAP. The UDC is clear an FLD must so comply. Further, *Northeast Phoenix Homeowners' A'ssn. v. Scottsdale Mun. Airport*, 130 Ariz. 487, 636 P. 2d 1269 (Ariz. App. 1981) discusses general plans only, not neighborhood plans, and therefore contributes nothing to resolve the question of whether the UDC requires an FLD to comply with a neighborhood plan.

Sincerely,



Carl Sammartino

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